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Attorneys for Defendant
POST-CONFIRMATION TRUST

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	PCT'S PROPOSED VERDICT
vs.)	FORMS
)	
HAWAIIAN EXPRESS SERVICE,)	Judge: Hon. Susan O. Mollway
INC., et al.,)	
Defendants.)	Trial Date: February 28, 2006
)	

VERDICT FORM

1. Did plaintiff prove any actual damages?

___ Yes (Go to question 2)

___ No (Go to question 4)

2. Did plaintiff prove a causal connection between any actual damages and the use of the copyrighted software by defendants Afredda Waiolama, Jacqueline Rio, Justin Fukumoto, Mark Dillon, Melvin Ponce, Sonia Purdy, Teresa Noa, and Fleming?

___ Yes (Go to question 3)

___ No (Go to question 4)

3. Enter the amount of actual damages.

\$_____

4. Do you find that between April 1, 2003 and June 9, 2003 Fleming was profitable, meaning receipts from the use of the copyrighted software exceeded the costs incurred to generate those receipts?

___ Yes (Go to question 5)

___ No (Sign the verdict form and return to clerk.)

5. Did plaintiff prove a causal connection between Fleming's profits and use of the copyrighted software?

___ Yes (Go to question 6)

___ No (Sign the verdict form and return to clerk.)

6. Enter the amount of profit. Do not include in this amount any profits or savings you took into account in determining actual damages, if any, entered in response to question 3.

\$_____

7. Did defendant PCT prove that any portion of the profits was attributable to factors other than the copyrighted software?

___ Yes (Go to question 8)

___ No (Sign the verdict form and return to clerk.)

8. Subtract from the amount in question 6 any portion of the profits that were attributable to factors other than the copyrighted software and enter the result below.

\$_____

Dated: March __, 2006

_____ (foreperson)

SUPPLEMENTAL VERDICT FORM

9. What amount of statutory damages do you award Wayne Berry for defendants' infringing actions between April 1, 2003 and June 9, 2003? Your award may be no lower than \$200 nor may your award be higher than \$30,000.

\$ _____

Dated: March __, 2006

_____ (foreperson)

Dated: Honolulu, Hawaii, February 22, 2006.

KOBAYASHI, SUGITA & GODA /s/ *Thomas H. Yee*
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THE POST CONFIRMATION TRUST
FOR THE FLEMING COMPANIES, INC.

and

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for Fleming Companies, Inc.